

REMARKS**OVERVIEW**

The present amendment accompanies a Request for Continuing Examination (RCE).

Claims 1-10, 17 and 18 are pending in this application. Claim 1 has been amended. The present response is an earnest effort to place all claims in proper form for immediate allowance.

ISSUES UNDER 35 U.S.C. § 103

Claims 1, 2, 4-9, 17 and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 5,721,783 to Anderson in view of U. S. Patent No. 5,956,399 to Whitley et al. The Applicant respectfully traverses this rejection as it is clear that neither Anderson nor Whitley et al. alone or in combination teach each and every element of independent claims 1 and 17. Therefore, all of these rejections should be withdrawn.

Neither reference relied upon by the Examiner discloses a transmitter and a receiver which are a part of a cradle. Claim 1 explicitly requires "the cradle comprising . . . a second transmitter and a second receiver." As neither reference discloses this limitation, this rejection must be withdrawn. It is noted that in making this rejection, the Examiner has cited Whitley et al. as disclosing this limitation. The Examiner is simply mistaken. The Examiner indicates that the second transmitter and the second receiver of Whitley et al. are shown in 22 of Figure 1 (Office Action, page 3, lines 6-8). It is respectfully submitted that the element referenced by numeral 22 in Whitley et al. is the telephone itself (Abstract). As shown in Figure 1, the telephone itself is not a part of the cradle. Therefore, Whitley et al. does not disclose a cradle comprising "a second transmitter and a second receiver." Therefore, it is respectfully submitted that this rejection should be withdrawn on that basis. In addition, claim 1 has been amended to add the limitation of "the second transmitter and the second receiver of the cradle adapted for

communication with the first transmitter and the first receiver of the earpiece." It is further submitted that neither Whitley et al. nor Anderson discloses this limitation either. Therefore, it is respectfully submitted that this rejection to claim 1 must be withdrawn. As claims 2 and 4-9 depend from claim 1, it is respectfully submitted that these rejections should also be withdrawn.

With respect to claim 17, claim 17 requires "a second receiver disposed within a cradle." Contrary to the Examiner's argument, Whitley et al. does not disclose a receiver within the cradle. In Whitley et al., the receiver is within a host device. Therefore, it is respectfully submitted that the Examiner has not made a *prima facia* of obviousness with respect to claim 17 as neither reference relied upon by the Examiner discloses a receiver within the cradle. The cell phone of Whitley et al. is connected to the cradle but the cell phone is not "disposed within" the cradle. Therefore, this rejection to claim 17 should be withdrawn. As claim 18 depends from claim 17, it is respectfully submitted that this rejection should also be withdrawn.

Claim 10 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson and Whitley et al. in view of U. S. Patent No. 6,181,801 to Puthuff et al. Claim 10 depends from claim 1. Puthuff does not remedy the deficiencies in the rejection to claim 1, therefore, it is respectfully submitted that this rejection to claim 10 should be withdrawn.

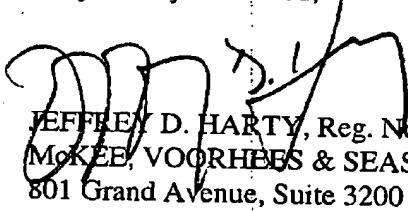
Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson and Whitley et al. in view of U. S. Patent No. 5,917,698 to Viallet. As claim 3 depends from claim 1 and Viallet does not remedy the deficiencies of the rejection to claim 1, it is respectfully submitted that this rejection should also be withdrawn.

CONCLUSION

This Amendment accompanies a Request for Continuing Examination (RCE). Please charge Deposit Account No. 26-0084 the amount of \$385.00 for filing of this RCE. No other

fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,


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